REMARKS

In this amendment, Applicant has cancelled Claims 1-3, 17-19, and 23-24, all without prejudice. Applicant has also amended Claim 26 to properly show its dependency from Claim 25.

After entry of this amendment, Claims 4-16, 20-22, 25, and 26 will be pending. Applicant thanks the Examiner for her indication in the Office Action that Claims 4-16 are allowable as written. Applicant also thanks the Examiner for her indication during the telephonic interview on October 8, 2003, that Claims 20-22, 25, and 26 (as amended) are allowable in that they depend from allowed Claim 6. No new matter has been added.

The Applicant further responds as follows to the pending objections and rejections.

Rejection of Claim 1 under 35 U.S.C. § 112, First Paragraph

The Examiner rejected Claim 1 under 35 U.S.C. §112, first paragraph, on the basis that, in the Examiner's view, the specification was not enabling for all known ingredients and therefore the recitation in Claim 1 relating to "blending the peanut powder with one or more ingredients to form a peanut powder composition..." was unduly broad. With this amendment, Applicant has cancelled Claim 1 without prejudice, making the rejection and any further response at this time moot.

Objection Based on Failure to Provide Proper Antecedent Basis For Claimed Subject Matter

The Examiner also objected to the specification under 37 CFR §1.75(d)(1) and MPEP §608.01(o) as failing to provide a proper antecedent basis for the claimed subject matter, specifically for the term "essence of roasted peanut oil" used in Claim 24 and Claim 26. Applicant respectfully traverses the objection. With this amendment, Applicant has cancelled Claim 24 without prejudice, making the objection and any further response at this time moot with respect to Claim 24.

With respect to Claim 26, Applicant respectfully directs the Examiner to Paragraph 37 of the specification, which provides an antecedent basis for the term "essence of roasted

peanut oil" as used in Claim 26. Applicant further clarifies that, for purposes of Claim 26, the term "essence of roasted peanut oil" means an ingredient comprised of excess peanut oil that results from pressing during processing. (See Paragraph 11). One of ordinary skill in the art would understand that during processing, this excess oil is collected in containers. Thereafter it may be used in additional product preparation without further processing, or it may itself undergo further processing, for example and without limitation, by filtration and addition of preservatives, and then sold or distributed for further use. Thus, one of ordinary skill would understand that essence of roasted peanut oil may be obtained from on-site operations or from other sources.

Applicant further clarifies that the "essence of roasted peanut oil" as referred to in Claim 26 is different from the amount of oil remaining in the pressed cake after expressing. For example, and without limitation, Paragraphs 18, 19, and 20 of the specification each disclose examples where the fat content of the peanut powder itself may vary, depending, for example, on the amount of pressure used during the pressing process (See Paragraph 11). Moreover, Paragraph 37 of the specification, disclosing examples of an "ice cream formula," including that claimed in Claim 26, distinguishes the "peanut powder composition" which "may be of one or more embodiments, without limitation...described above...", including embodiments with peanut powders of varying fat contents, from essence of roasted peanut oil, as a separate ingredients.

Rejection of Claim 1-3 and 17-26 under 35 U.S.C. §103(a)

The Examiner also rejected Claims 1-3 and 17-26 as obvious pursuant to 35 USC §103(a) over Baxley in view of Wong. With this amendment, Applicant has canceled Claims 1-3, 17- 19 and 23-24 without prejudice, thereby making the rejection and any further response at this time moot with respect to those claims.

With respect to Claims 20-22 and 25-26, those claims each depend from allowed Claim 6. Applicant again thanks the Examiner for her indication during the October 8, 2003 telephonic interview that Claims 20-22 and 25-26 are allowable as depending from an allowed claim. Per the Examiner's suggestion in the interview, Claim 26 has also been amended to properly show its dependency from Claim 25.

CONCLUSION

For at least these reasons, Applicant believes that Claims 4-16, 20-22, and 25-26 are now in condition for allowance, and Applicant earnestly requests early action. Applicant thanks the Examiner for her consideration and comments on these matters.

It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC. If the Examiner has any questions or comments, she is kindly urged to call the undersigned to facilitate prosecution.

Respectfully submitted,

Date: October 17, 2003

James F. Kamp, Registration No. 41,882
Rader, Fishman and Grauer PLLC
39533 Woodward Ave., Suite 140
Bloomfield Hills, Michigan 48304
(248) 594-0650
Attorneys for Applicants
Customer No. 010291

R0208918.DOC